

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:07-CR-322-FL-1
NO. 5:16-CV-650-FL

MCKINLEY SHONDELL JONES,)
)
 Petitioner)
)
 v.)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

This matter is before the court on petitioner's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 (DE 69), and the government's motion to dismiss. (DE 82). Petitioner previously filed a motion under § 2255 (DE 40), which the court denied on June 5, 2013. (DE 56). Therefore, this court lacks jurisdiction to consider the instant second, successive, motion under § 2255 unless petitioner has obtain prior certification from the Fourth Circuit Court of Appeals that the second, successive, motion contains newly discovered evidence or a new rule of constitutional law made retroactive on collateral review. See 28 U.S.C. § 2255(h). Accordingly, petitioner's § 2255 motion is DISMISSED, and the government's motion to dismiss is GRANTED. A certificate of appealability is DENIED.

SO ORDERED, this the 24th day of October, 2016.


LOUISE W. FLANAGAN
United States District Judge